



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,566	01/19/2001	Earl M. Rector JR.	UV-31CONT.	2141
1473	7590	02/13/2004	EXAMINER	
FISH & NEAVE 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105			KOSTAK, VICTOR R	
			ART UNIT	PAPER NUMBER
			2614	
DATE MAILED: 02/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/766,566	RECTOR ET AL.	
	Examiner	Art Unit	

Victor R. Kostak
2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 5 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 January 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 and 42-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 and 42-50 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

1. Applicant's arguments with respect to the rejection based on the Thomas reference have been considered but are moot in view of the new ground(s) of rejection. The examiner again regrets prolonging prosecution.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 and 42-50 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (of record) in view of Kessel et al., or alternatively, Kessel in view of Thomas.

Reviewing Thomas, his data management system (noting particularly Figs. 1, 4, 5 and 8) involves constructing, organizing and modifying program guide databases for eventual distribution, and includes correcting , validating and editing program guides prior to distribution (e.g. col. 3 lines 60-64). Television computers (i.e. computers which process television data) are used to initially generate and modify EPG data (e.g. col. 2 lines 48-50; computer hardware and software very typically implemented in database management) and the EPG data is arranged in channel and time slot data grid format (col. 1 lines 33-37). Manual entry and correction subsystem 20 involves personnel at the headend obtaining and applying content data in the EPG construction stage, and configuration of the guide provided by element 96 (which involves target fitting of the data in the grid arrangement).

One embodiment of EPG assembly regarding initial text collection (from a text database) involves configuration subsystem 50 being consulted by the ADC (automated data collection) for selecting appropriate content text, the text fit processor for determining field sizes (i.e. grid cell/tile dimensions; col. 10 lines 20-22 and 30-33), which suggests that the grids are checked prior to completion and during assembly. Further discussion of checking during construction is given in col. 6 lines 29-35 which describes updating (reconstruction) of EPGs for conflicts database 90 during manual editing and correcting which can be done in real time. Thomas further points out that a manual entry and corrections subsystem is needed to make changes, deletions and corrections to the data contained in the database, such as in assuring a "text fit" (col. 7 lines 21-27), and automatic editing can also be applied (col. 7 lines 50-53).

However, as applicant argues, initial data entry into the grid is not disclosed by Thomas, and the error checking he does disclose is done subsequent to any initial program guide generation. Nonetheless, there is unquestionably some point in time when the grid is originally constructed under the direction of an operator.

The system of Kessel involves initially entering data into fields on a video display screen, wherein efficiency is improved by applying an automatic error checking function during the entry process (col. 1 lines 50-63), and specifically on an input data – by input data – basis for each input field (col. 14 lines 41-45), which further implies real-time adjustment. Kessel initially describes his system as being applied to process engineering but the substance of his disclosure is addressed to general applications.

In view of the benefit of automatic error checking during initial data entry into fields on a screen as explicitly disclosed by Kessel, it would have been obvious to one of ordinary skill in

the art to ensure as much as possible that data fields on a video screen are properly presented in any system that involves initially entering data by an operator to generate screens of data fields entered manually in piecemeal fashion, such as the system as that of Thomas which involves continuous data entry updating. By automatically checking the initial entry of data thereto by an operator, the initial data entry into fields (in this case program guide data grid cells) results in minimal error, and is thereby carried out in an efficient manner (so specified by Kessel). In Thomas, an initial database of entries covers all necessary program schedule data and the data entry would involve respective television system computers handled by respective operators, thereby meeting claims 1, 10 and 42.

Alternatively, it would have been obvious to one of ordinary skill in the art to modify Thomas by Kessel by recognizing the explicitly disclosed benefit of Kessel regarding initial data entry. Prior to subsequent guide assembly and eventual schedule guide transmission, it would have been obvious to first enter the data as accurately as possible with the assistance of automatic checking for errors during entry, thereby resulting in fewer erroneously constructed schedule guides that need to be subsequently checked, thereby meeting claims 1, 10 and 42

As for claims 2, 11 and 43, manual data entry requires a user accessing an interface with the computer, which therefore means that an interface is inherent in the system of Thomas. Kessel specifies using station hardware involving data entry (col. 4 lines 22-43).

Regarding claims 3, 12 and 44, program data errors (i.e. text from the database) would be checked during EPG construction. (i.e. data entry into the fields as disclosed by Kessel).

As for claims 4, 13 and 45, “text fits” and ensuring that titles do not exceed the target fields (col. 8 lines 22-25) are addressed. Such would have been obvious to check during data

entry as taught by Kessel, for the general purpose of assembling a sufficiently presentable grid in an efficient manner.

As for claims 5, 14 and 46, Thomas points out that checking to validate any additional number of potential problems with the data would have been apparent to those skilled in the art, and gives examples (col. 8 lines 35-41). In view of this, it would have been obvious to account for errors such as listing duplicate data, which is a possibility due to plural data sources or operators accessing the same databases. (Thomas also discusses minimizing duplicate data in the database in order to keep the database limited: col. 6 line 12+).

As for claims 7, 16 and 48, Fig. 1 of Thomas depicts the main facility. Kessel too would have a main (if not single and therefore main) facility.

Considering claims 8, 17 and 49, the ultimately corrected EPGs are sent to distributors (noting the rightmost system components in Fig. 1 of Thomas).

As for claims 9, 18 and 50, the individual workstations (not depicted) send the EPG data to database 90 (Fig. 3).

3. Once again, the examiner regrets prolonging prosecution, but recognizes nonetheless the value of bringing to light relevant and applicable prior art.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

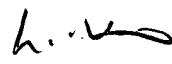
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.


Victor R. Kostak
Primary Examiner
Art Unit 2614

Application/Control Number: 09/766,566
Art Unit: 2614

Page 7

VRK